

<p>J6JYAHU5 Page 2042</p> <p>1 MR. TARLOWE: We'll send them. 2 MR. RUZUMNA: We have them all. 3 THE COURT: Tonight. 4 MR. RUZUMNA: Yes. 5 THE COURT: Tonight. It has to be. I would be 6 bringing him back this week. I'm not going to bring him back 7 six weeks into this -- eight weeks into this trial. Then there 8 is some clarity on that, and you'll tell me tomorrow where we 9 are with that. 10 Mr. Tarlowe, something else? 11 MR. TARLOWE: Your Honor, just to add to the 12 discussion we had this morning about Mr. Nimberg's testimony 13 and about whether the scheme that he was testifying about was 14 the same scheme, I just want to add to that discussion that the 15 question on redirect by the government was, you testified on 16 direct and on cross that from about the middle of 2014 to the 17 middle of 2015, you engaged in a scheme to inflate the net 18 asset value of PPI's hedge funds. Is that correct? 19 Yes. 20 Then the government said: You did that with Mr. Shor? 21 Yes. 22 You did that with Mr. Ahuja? 23 Yes. Again, the prejudice that results from that, 24 perhaps among other things, is the jury is now given the 25 impression that he now has admitted into engaging in the</p>	<p>J6JYAHU5 Page 2044</p> <p>1 conspiracy. 2 MR. TARLOWE: Judge, the issue is how it's charged. 3 So they certainly could have charged a scheme to inflate by 4 various means, including but not limited to. They didn't. 5 THE COURT: But they did. 6 MR. TARLOWE: It says the firm mismarked securities in 7 two ways. That's what the indictment says. 8 THE COURT: Sure, but they also talk about the 9 challenges as a precursor to the mismarking in two ways, and 10 that's what he's talking about. 11 MR. TARLOWE: It says the challenges evolved to 12 fraudulent mismarking, meaning the challenges were legitimate. 13 And then over time, it evolved to fraudulent mismarking. 14 THE COURT: I understand, sir. 15 Mr. Rosenberg here? 16 MR. ROSENBERG: I am, your Honor. 17 THE COURT: Mr. Rosenberg, I'm not sure you knew that 18 I wanted to speak with you, but perhaps you did because you are 19 here. Mr. Rosenberg, would you come up to the podium. 20 Mr. Rosenberg, you are Mr. Majidi's counsel. Am I not 21 correct? 22 MR. ROSENBERG: I am one of them. 23 THE COURT: I appreciate the clarification. 24 May I just have you go to the podium so I can hear 25 you, sir.</p>
<p>J6JYAHU5 Page 2043</p> <p>1 charged scheme with Mr. Ahuja, and I don't know think that he 2 has. 3 THE COURT: And I don't know that he's not, sir. It's 4 more than just the challenge issue. I understand your point, 5 and your record is made. 6 MR. TARLOWE: I want to give more thought to it, but I 7 think in addition to a multiple conspiracy issue, it may be a 8 404(b) issue because if it's not the charged conduct, it's 9 404(b). 10 THE COURT: Or it's inextricably intertwined or 11 background to the conspiracy. I might be making that finding, 12 sir, but I understand your point. 13 Mr. Naftalis. 14 MR. NAFTALIS: Just to put on the record, we do think 15 that it's the same scheme. I think they're sort of fighting 16 over means and methods. We've got the two means and methods. 17 We understand that, but the scheme is to inflate. 18 We understand your Honor's ruling on one and the two. 19 We do not think -- the object is to commit securities fraud to 20 inflate the value. The object is to commit wire fraud to 21 inflate the value. 22 The object is never charged to push up with two 23 challenges and not challenge down. Then we're getting into -- 24 there would be 50 conspiracies charged here because they're 25 sort of different permutations. It is certainly one</p>	<p>J6JYAHU5 Page 2045</p> <p>1 MR. ROSENBERG: Is this better? 2 THE COURT: It is. Thank you very much. 3 I do not feel the need, sir, to put you under oath. I 4 appreciate that you're an officer of the court and you're not 5 going to lie to me in response to the questions I'm asking you 6 today. 7 MR. ROSENBERG: I am not. 8 THE COURT: If your colleagues at the bar think 9 otherwise, they'll let me know, but I'm fine doing this. 10 Sir, the reason I wanted to speak to you is because 11 there's been a suggestion raised by the defendants that your 12 client's allocation before me was modified or was altered in 13 response to either government influence or government pressure 14 or government involvement in the preparation of the allocation. 15 I did notice, sir, that there was a draft allocation 16 that was received. I've seen it. Everyone has seen it. And I 17 also know what was said before me. And there was a difference. 18 So I'm wondering, if you could, without getting into 19 privileged communications that you might have had with your 20 client, tell me how that might have happened, if you have a 21 recollection. 22 MR. ROSENBERG: My recollection varies as to different 23 parts of this. 24 THE COURT: Okay. Do you mean in terms of the 25 strength of your recollection?</p>

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1 MR. ROSENBERG: Exactly.		1 MR. ROSENBERG: I spoke with him. I have a very vague	
2 THE COURT: Not in terms of the accuracy. Okay, sir.		2 recollection.	
3 Let me, please, hear from you.		3 THE COURT: Of course.	
4 MR. ROSENBERG: On October 29, my partner, Brian		4 MR. ROSENBERG: Of speaking with him later that day.	
5 Linder, prepared an initial draft of the allocution which I		5 THE COURT: To the best of your recollection, whatever	
6 reviewed on that day, and ultimately, we settled on a draft.		6 you can recall, I'd be happy to hear.	
7 We sent it to the government.		7 MR. ROSENBERG: Well, the topic was certainly the	
8 THE COURT: Let me please stop you for a moment, sir.		8 allocution. I've been over this a lot since I knew the Court	
9 It's Mr. Linder who did this?		9 was interested in this, and I really would only be guessing at	
10 MR. ROSENBERG: Linder, L-i-n-d-e-r.		10 what we talked about.	
11 THE COURT: I thought as much. Mr. Linder prepared		11 I've tried to sort it out as best I could, and I	
12 the draft.		12 really don't -- there is nothing I would be confident in saying	
13 To the best of your knowledge, was that done with the		13 about that conversation. I just don't recall it.	
14 assistance or participation of Mr. Majidi? Was he there in the		14 THE COURT: Let me ask this, sir: If you were asked	
15 room? If you know.		15 by the government to modify the allocution in a way that you	
16 MR. ROSENBERG: I think what I can say, Judge, is that		16 thought was contrary to what your client had said, would you	
17 Mr. Majidi was familiar with the draft that we prepared.		17 have done it?	
18 THE COURT: "Familiar" in the sense that he read it?		18 MR. ROSENBERG: Absolutely not.	
19 MR. ROSENBERG: He was aware of it.		19 THE COURT: Would you remember that conversation?	
20 THE COURT: He was aware?		20 MR. ROSENBERG: I would.	
21 MR. ROSENBERG: Aware of the details of it.		21 THE COURT: If you were told that the allocution as	
22 THE COURT: Aware of the details. All right.		22 drafted was going to result in the termination of the	
23 So that draft was then sent to whom, sir?		23 cooperation relationship, would you have remembered that	
24 MR. ROSENBERG: It was sent to the government. I		24 conversation?	
25 don't remember who was on the email. It would in those days		25 MR. ROSENBERG: Of course.	
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1 have been Mr. Naftalis.		1 THE COURT: Why I'm asking the question -- no surprise	
2 THE COURT: Okay.		2 here -- is I'm trying to figure out if your conversation was so	
3 MR. ROSENBERG: I don't know if anyone else was		3 benign that you can't remember it.	
4 included on that email.		4 MR. ROSENBERG: Again, I think it was about details of	
5 THE COURT: Sir, I have a recollection that the email		5 the allocution. There was nothing ominous about it. Certainly	
6 attachment was titled something to the effect of allocution		6 no one ever suggested that Mr. Majidi allocute to something	
7 approved. I think the word "approved" was in it, and I don't		7 that had not already been disclosed as the general theme and	
8 actually know who did the approving, whether it was you, sir,		8 facts of his involvement in this matter.	
9 or your client or Mr. Linder.		9 THE COURT: Sir, my recollection of one difference	
10 MR. ROSENBERG: I saw that. I saw that, and that		10 between the allocution that was sent to Mr. Naftalis and the	
11 language has nothing to do with this case, whether Mr. Linder		11 allocution that was given to me, perhaps a day or so later, was	
12 started out on some other allocution somewhere or some other		12 the introduction of Mr. Shor's name.	
13 document that had that on it, but to the best of my knowledge,		13 I don't know whether that was -- if that is the	
14 the notion that it was approved had nothing to do with this		14 product of communications you had with your client, I don't	
15 case.		15 want to know about your privileged communications. But if the	
16 THE COURT: So, sir, this was sent to Mr. Naftalis or		16 government said to you, in substance, hey, what about Jeremy	
17 someone at the government. Maybe we can cut to the heart of		17 Shor, I think I'd like to know that.	
18 it.		18 MR. ROSENBERG: It is possible.	
19 Mr. Naftalis, it was sent to you. Yes?		19 THE COURT: You have no recollection?	
20 MR. NAFTALIS: Yes.		20 MR. ROSENBERG: I have no recollection of it. I think	
21 THE COURT: Sir, after it was sent, did you receive		21 it may be appropriate to say that in preparing the draft of the	
22 any communications from the government?		22 allocution that we sent to the government, it wasn't meant to	
23 MR. ROSENBERG: I received an email from Mr. Naftalis		23 exhaust Mr. Majidi's knowledge of the facts.	
24 asking if we could speak.		24 It was a conspiracy was alleged. Our client had to	
25 THE COURT: Were you able to speak with him?		25 have conspired with someone. I think we included Mr. Ahuja as	

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1 a coconspirator and listed with Mr. Ahuga and others attempting		1 to the government?	
2 to make it legally sufficient. That would typically be the way		2 MR. ROSENBERG: Yes.	
3 we would have prepared an allocution. We wouldn't have gone		3 THE COURT: Yes, you saw --	
4 beyond something of that sort.		4 MR. ROSENBERG: He either saw it or it was read to	
5 THE COURT: Is there a possibility, sir, that -- by		5 him.	
6 the way, I'm describing no nefarious motives to anything. I'm		6 THE COURT: One moment, please. Excuse me.	
7 just really trying to understand what happened.		7 I'm going to ask the question again. I'm not sure I'm	
8 After you had the discussions with Mr. Naftalis, did		8 going to be more successful this time.	
9 you have additional discussions with either Mr. Linder or with		9 Would Mr. Majidi have changed that language on his	
10 your client about the allocution?		10 own?	
11 MR. ROSENBERG: I don't recall specific conversations		11 MR. ROSENBERG: He would not.	
12 with Mr. Linder, but I'm sure I had them.		12 THE COURT: He would have changed it based on	
13 THE COURT: I'll try it this way: Would you agree		13 discussions with you? No. The language would have been	
14 with me, sir, that there is a difference between the approved		14 changed because of discussions that he had with you?	
15 allocution that was sent to the government and the words that		15 MR. ROSENBERG: If you're talking about the changes	
16 were said by your client before me at the actual guilty plea?		16 that occurred between the draft that was sent to the government	
17 MR. ROSENBERG: There is.		17 and the allocution that was read?	
18 THE COURT: Can you attribute the alterations between		18 THE COURT: Yes, sir.	
19 the two allocutions to conversations with the government as		19 MR. ROSENBERG: He was not involved in anything that	
20 distinguished from conversations that you had with your		20 led to those changes.	
21 colleagues, conversations that you had with your client?		21 THE COURT: "He was not involved in anything that led	
22 MR. ROSENBERG: It's hard for me to answer it in quite		22 to those changes." That suggests to me that changes between	
23 that way. Maybe I can approach it differently.		23 the two allocutions were the product of your discussions with	
24 THE COURT: Of course.		24 the government.	
25 MR. ROSENBERG: I have no recollection of preparing		25 MR. ROSENBERG: Again --	
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1 myself the allocution that Mr. Majidi delivered to you.		1 THE COURT: If you know.	
2 THE COURT: Was Mr. Majidi reading from notes when he		2 MR. ROSENBERG: It would have to be the case. I don't	
3 spoke with me?		3 have a recollection of that conversation.	
4 MR. ROSENBERG: He was.		4 THE COURT: The document that you sent to the	
5 THE COURT: Did he read them word for word?		5 government, the approved allocution -- is it consistent with	
6 MR. ROSENBERG: He did.		6 what your client said in proffer sessions with the government?	
7 THE COURT: He did. All right. There were a few		7 MR. ROSENBERG: It is.	
8 things missing as you'll recall. We had to talk about the		8 THE COURT: Is it accurate?	
9 wires. I think there were follow-up questions about the wires.		9 MR. ROSENBERG: It is.	
10 MR. ROSENBERG: I'm sorry. I don't recall that.		10 THE COURT: Based on what your client said?	
11 THE COURT: That's fine.		11 MR. ROSENBERG: It is.	
12 Sir, the allocution that I'm calling the approved		12 THE COURT: I'm making no findings as to his	
13 allocution, the one that was transmitted to the government --		13 credibility.	
14 your client was aware of the fact of its transmission to the		14 MR. ROSENBERG: It is.	
15 government?		15 THE COURT: What he said before me at the plea	
16 MR. ROSENBERG: Yes.		16 proceeding -- was that also in accordance with the statements	
17 THE COURT: Was he aware of what actually was		17 he had made to the government in his proffer sessions?	
18 transmitted to the government?		18 MR. ROSENBERG: It was.	
19 MR. ROSENBERG: To the extent that he would have been		19 THE COURT: Was it accurate to the best of your	
20 told that what he was aware of was being sent to the		20 understanding?	
21 government.		21 MR. ROSENBERG: It was.	
22 THE COURT: Was he copied on the transmittal, sir, or		22 THE COURT: Did you feel in any way compelled,	
23 b.c.c.'d on the transmittal, sir? If you know.		23 pressured, encouraged, influenced by government to change the	
24 MR. ROSENBERG: I don't believe so.		24 language of the allocution? I'll go through each of those	
25 THE COURT: Did you review the document before it went		25 verbs, and I'll add some more if you'd like. I'll start with	

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1 the easiest.		1 that I think as well should be asked, I'll ask that. Just give	
2 Were you forced by the government to change the		2 us a moment, please. Thank you, sir.	
3 allocation?		3 MR. ROSENBERG: Of course.	
4 MR. ROSENBERG: No.		4 (Continued on next page)	
5 THE COURT: Were you pressured by the government to		5	
6 change the allocation?		6	
7 MR. ROSENBERG: No.		7	
8 THE COURT: Were you in fear of retribution from the		8	
9 government if you didn't change the allocation?		9	
10 MR. ROSENBERG: No.		10	
11 THE COURT: Were you encouraged by the government to		11	
12 change the allocation?		12	
13 MR. ROSENBERG: As best I can figure it out, I think		13	
14 the government thought that the allocation -- there's a vague		14	
15 recollection that they thought it was too specific in the		15	
16 introductory part, and I can only conclude that there was some		16	
17 issue having to do with the inclusion of Mr. Shor's name.		17	
18 THE COURT: One moment, please. I just want to see		18	
19 that.		19	
20 You're saying you can only conclude. I only want to		20	
21 know what you can recall. Please don't be estimating or		21	
22 guessing.		22	
23 MR. ROSENBERG: No. I'm trying to be very specific		23	
24 about my recollection.		24	
25 THE COURT: I appreciate that, sir. Thank you.		25	
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1 So what is the best of your recollection as you stand		1 (At sidebar)	
2 before me now?		2 THE COURT: Okay. Is there any question that I	
3 MR. ROSENBERG: I have a very, very, very vague		3 haven't asked yet that you think should be asked?	
4 recollection of the initial part of our draft or what was		4 Mr. Ruzumna.	
5 submitted to them being overly complicated or overly specific		5 MR. RUZUMNA: I would just like to ask for a	
6 or whatever.		6 clarification, would you have changed the proposed allocation	
7 THE COURT: Not that it was incorrect?		7 but for your conversation with the government.	
8 MR. ROSENBERG: No. No. No. No.		8 MR. FINZI: I'd ask, Judge, it's clear that something	
9 THE COURT: But that it was too detailed?		9 mechanically happened between what was sent to the government	
10 MR. ROSENBERG: Yes. Something along those lines.		10 and what was done. So something was typed up. Some minutes	
11 THE COURT: Did you ever hear the expression "hit the		11 were made. I wonder on that front who made those changes or	
12 elements"?		12 what he recalled about those changes made.	
13 MR. ROSENBERG: Sure.		13 I'd also ask if there are any notes, separate from	
14 THE COURT: Is that something you recall in the		14 privilege, in emails of a conversation so we can reconstruct	
15 context of this conversation?		15 what happened between what we're calling the approved version	
16 MR. ROSENBERG: No. I don't recall this conversation		16 and the one delivered. Clearly changes were made.	
17 in anything like that detail. I'm trying to make clear.		17 MR. RUZUMNA: The same point. Does he recall how that	
18 THE COURT: I know, and I'm trying to get you to		18 script that was read, who prepared that.	
19 remember more of it.		19 THE COURT: I understand. Thank you.	
20 MR. ROSENBERG: I'm not holding back. I'm trying to		20 (Continued on next page)	
21 get it right.		21	
22 THE COURT: That's all I can ask for, sir.		22	
23 Let me do this. I'm going to ask you to just stay		23	
24 there for a second. I want to just talk to counsel at sidebar.		24	
25 If there is some question that they think I should have asked		25	

<p>J6JYAHU5 Page 2058</p> <p>1 (In open court)</p> <p>2 THE COURT: Sir, first of all, I do appreciate your</p> <p>3 patience. Second of all, I appreciate that this may be a</p> <p>4 strange position to be in, to be questioned in this regard</p> <p>5 about this matter. Just a few follow-up questions based on</p> <p>6 what we've talked about this afternoon.</p> <p>7 Had you sent this allocution, had there been no</p> <p>8 response to your email to Mr. Naftalis, was it your</p> <p>9 contemplation that your client would have read at his plea</p> <p>10 allocution the very thing that you sent?</p> <p>11 MR. ROSENBERG: Yes, your Honor.</p> <p>12 THE COURT: And so would you have changed the</p> <p>13 allocution absent your conversation with the government?</p> <p>14 MR. ROSENBERG: No, your Honor.</p> <p>15 THE COURT: You had no plans of talking about it the</p> <p>16 next day with any of your co-counsel or with your client?</p> <p>17 MR. ROSENBERG: No, your Honor.</p> <p>18 THE COURT: I believe you said to me earlier that your</p> <p>19 client did in fact read from notes, written notes.</p> <p>20 MR. ROSENBERG: Yes, your Honor.</p> <p>21 THE COURT: And those notes I think you'd agree with</p> <p>22 me, sir, are different from what was initially sent to</p> <p>23 Mr. Naftalis.</p> <p>24 MR. ROSENBERG: That is the case.</p> <p>25 THE COURT: Somehow someone had to do the editing, and</p>	<p>J6JYAHU5 Page 2060</p> <p>1 MR. ROSENBERG: We've done -- I've had people more</p> <p>2 capable than I do a thorough search of our system.</p> <p>3 THE COURT: And those same very capable people did not</p> <p>4 find any emails from the government attaching a proposed</p> <p>5 allocution; correct?</p> <p>6 MR. ROSENBERG: Correct, your Honor.</p> <p>7 THE COURT: And had you had a document of that type or</p> <p>8 emails of that type, may I expect that you would have saved</p> <p>9 them somewhere on your system?</p> <p>10 MR. ROSENBERG: That would ordinarily be the case.</p> <p>11 THE COURT: And no such emails were found?</p> <p>12 MR. ROSENBERG: That's correct.</p> <p>13 THE COURT: So on the Clayman & Rosenberg side of the</p> <p>14 house, it would have been you or Mr. Linder who made the</p> <p>15 changes?</p> <p>16 MR. ROSENBERG: It would have been. I can't think --</p> <p>17 no. There is no one else who would have been involved in a way</p> <p>18 such that they would have made the changes. As I said, neither</p> <p>19 of us recalls doing that.</p> <p>20 THE COURT: And you'll excuse me if this is too</p> <p>21 fundamental.</p> <p>22 Mr. Majidi himself would not have been asked to make</p> <p>23 those changes?</p> <p>24 MR. ROSENBERG: No.</p> <p>25 THE COURT: But I think you've anticipated one of my</p>
<p>J6JYAHU5 Page 2059</p> <p>1 I don't know whether it was you or a colleague or Mr. Majidi or</p> <p>2 something else. I don't know how it came to be that the edits</p> <p>3 were entered.</p> <p>4 Do you recall, sir?</p> <p>5 MR. ROSENBERG: I believe I said to your Honor that I</p> <p>6 don't recall making any changes.</p> <p>7 THE COURT: That's exactly right. You did say that.</p> <p>8 So would Mr. Linder have?</p> <p>9 MR. ROSENBERG: I believe Mr. Linder would tell you</p> <p>10 the same thing.</p> <p>11 THE COURT: Okay. Who are the people who could have</p> <p>12 touched the document?</p> <p>13 MR. ROSENBERG: I think it was between us and the</p> <p>14 government.</p> <p>15 THE COURT: You think the government might have sent</p> <p>16 you something? An edited allocution?</p> <p>17 MR. ROSENBERG: I'm sure that if they had, you would</p> <p>18 have it because we would have produced it in the course of</p> <p>19 this.</p> <p>20 THE COURT: Right. Of course.</p> <p>21 MR. ROSENBERG: We don't have it in our system. We</p> <p>22 don't have the document that Mr. Majidi read in our system.</p> <p>23 THE COURT: It's not in your system?</p> <p>24 MR. ROSENBERG: No.</p> <p>25 THE COURT: Okay.</p>	<p>J6JYAHU5 Page 2061</p> <p>1 final questions, which is: I know that materials were</p> <p>2 produced. I know that the draft allocution was produced with</p> <p>3 the transmittal letter.</p> <p>4 To the extent that you or your firm had anything else</p> <p>5 responsive to this issue that was not privileged, has it been</p> <p>6 produced?</p> <p>7 MR. ROSENBERG: Yes.</p> <p>8 THE COURT: I'll let you decide whether you want to</p> <p>9 answer this or not.</p> <p>10 Do you have privileged materials, sir, regarding all</p> <p>11 of this?</p> <p>12 MR. ROSENBERG: No.</p> <p>13 THE COURT: Do you have --</p> <p>14 MR. ROSENBERG: Let me say this. I haven't thought</p> <p>15 about that in detail, but my instinct is to say no.</p> <p>16 THE COURT: Would you have taken notes of your</p> <p>17 conversation with Mr. Naftalis?</p> <p>18 MR. ROSENBERG: No. I don't believe I would have.</p> <p>19 THE COURT: Okay. If you had, would you have produced</p> <p>20 them in connection with the inquiry that was made here?</p> <p>21 MR. ROSENBERG: Of course.</p> <p>22 THE COURT: Sir, I believe that's all I have to ask</p> <p>23 you. I really do thank you for giving me insight I did not</p> <p>24 have.</p> <p>25 MR. FINZI: Judge, can I raise one other thing at</p>

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1 sidebar?		1 you.	
2 MR. RUZUMNA: I have a question too, your Honor.		2 MR. RUZUMNA: In light of the testimony -- not the	
3 MR. ROSENBERG: Judge, I can just step out.		3 testimony.	
4 THE COURT: You are very gracious to do that. Thank		4 THE COURT: The statements. Yes.	
5 you very much. We'll come and get you momentarily. Thank you.		5 MR. RUZUMNA: -- from Mr. Rosenberg, it does sound	
6 (Mr. Rosenberg not present)		6 like the draft allocation, what your Honor referred to as the	
7 THE COURT: Mr. Ruzumna.		7 "approved allocation" was intended to be read into the record.	
8 MR. RUZUMNA: I think we need to ask a question does		8 It would have been a sworn statement. It was understood as	
9 he recall receiving something on the day of the plea allocation		9 such.	
10 or the day before by means other than email.		10 We certainly would like to use that with respect to	
11 THE COURT: Okay. And then I think this has to end		11 Mr. Majidi in his cross. So we would ask that that be	
12 because I think we're exhausting his memory.		12 permitted to be used as affirmative evidence. We do not have	
13 Mr. Finzi.		13 to get into this incident with -- I won't call it an	
14 MR. FINZI: Nothing more.		14 "incident."	
15 THE COURT: Did you have the same question?		15 THE COURT: It's not an "incident," sir.	
16 MR. FINZI: Yes.		16 MR. RUZUMNA: We don't have to get into the	
17 THE COURT: Great minds thinking alike.		17 back-and-forth with the government at all, but we do think that	
18 Thank you very much. If you could please bring in		18 that statement is the equivalent of what Mr. Majidi would have	
19 Mr. Rosenberg.		19 said in his sworn plea allocation.	
20 (Mr. Rosenberg present)		20 We'd like to use it as such because it does have	
21 THE COURT: Sir, thank you very much. Just questions		21 relevance to my client. And as your Honor has, I believe,	
22 that I overlooked asking.		22 noted, it's significantly different in certain respects.	
23 After your communication with Mr. Naftalis -- that was		23 THE COURT: I did issue an order on this previously.	
24 in an afternoon or an evening, sir? The conversation.		24 I'm going to look at my order. I presume you're renewing all	
25 MR. ROSENBERG: I believe the email said after 4:30.		25 of the arguments that you've made, and I suppose if you want to	
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1 So I assume it was in the afternoon, late afternoon or evening.		1 talk about them, I fear we will not be done with Mr. Majidi	
2 THE COURT: That evening, did you receive anything		2 tomorrow.	
3 from Mr. Naftalis by any means other than email? Text, phone		3 MR. RUZUMNA: We certainly are not.	
4 call, personal delivery, anything of that nature, sir.		4 THE COURT: If you want to reflect tonight and talk to	
5 MR. ROSENBERG: I don't know. I certainly can't rule		5 me tomorrow afternoon, that's fine. I have the baseline -- I'm	
6 that out. I simply don't have a recollection of it. It's		6 calling it that for lack of a better term -- of an order that I	
7 entirely possible.		7 previously issued on this point, but I want to think about it	
8 THE COURT: Would you remember it if you did? I guess		8 some more.	
9 not. You say you don't know.		9 MR. RUZUMNA: I think the order does address these	
10 MR. ROSENBERG: No. I don't think I would.		10 issues. I think we now have the benefit of additional	
11 THE COURT: On the day of the plea, on the day of the		11 information.	
12 plea, did you receive anything from the government by any means		12 THE COURT: That's fine. I understand that. Exactly.	
13 other than email?		13 I want to address that, and I want to give the government the	
14 MR. ROSENBERG: I don't have a recollection of that.		14 same opportunity, and that's by the end of the day tomorrow to	
15 THE COURT: Okay. Just so that I'm clear, your files,		15 communicate that. If you'd like to give them to me in writing,	
16 your firm's files currently, do not have a copy of the final		16 I won't stop you. But I imagine you have other things like	
17 allocation?		17 shortening up your examinations. Yes.	
18 MR. ROSENBERG: That's what I understand.		18 MR. NICHOLAS: Your Honor, we're happy to address it	
19 THE COURT: All right. Thank you, sir. Those are all		19 orally tomorrow. We do disagree with Mr. Ruzumna in terms of	
20 the questions I have for you, sir. Thank you very much.		20 whether the Court's order needs to be revisited based on	
21 I don't know that there is anything else to discuss		21 Mr. Rosenberg's statements, but we can address it tomorrow. No	
22 this evening. Perhaps you want to think about it.		22 need to go into it right now.	
23 MR. RUZUMNA: Your Honor, I think we can talk about it		23 THE COURT: While I have you standing, sir, did the	
24 tomorrow.		24 government send anything to Mr. Rosenberg?	
25 THE COURT: Closer to a microphone, please. Thank		25 MR. NICHOLAS: Your Honor, I have no recollection of	

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1 that.
2 MR. NAFTALIS: No.
3 MR. NICHOLAS: I do just want to make clear -- this is
4 just me speaking -- I don't think there would be anything
5 improper -- I don't think there is anything improper about
6 discussing with a defense lawyer an allocution.
7 THE COURT: Sir, I'm not suggesting there is.
8 MR. NICHOLAS: Okay.
9 THE COURT: A thing that is different now in this
10 minute than there was before I spoke with Mr. Majidi's counsel
11 is that Mr. Naftalis had a recollection -- I won't say a
12 "strong recollection," but a recollection of a conversation,
13 and did not recall -- I wouldn't expect him to recall --
14 transmitting anything.
15 And Mr. Rosenberg suggested that maybe there was a
16 possibility that the government handled the edits. So I'm
17 allowed to ask whether they handled the edits, and I'm being
18 told they didn't.
19 MR. NICHOLAS: Of course. I don't mean to kind of put
20 restrictions on the Court's inquiry, not that I even could. I
21 just want to make clear that I think the area that's being
22 examined is not, to use someone else's word, "nefarious."
23 THE COURT: The word is mine. By using it, I wasn't
24 suggesting it either. I have a better understanding of what
25 happened. I want the parties to think about whether they want

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1 to make additional arguments to me about what happened or
2 whether they want to stand on what has been said previously,
3 and I'll decide.
4 MR. NICHOLAS: Thank you, Judge.
5 THE COURT: Anything else from anyone?
6 MR. FINZI: No, your Honor.
7 THE COURT: Thank you all very much.
8 (Adjourned)
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